

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS

NEIL WILLIAMS,

Plaintiff,

v.

CIVIL ACTION NO. 2:18-CV-135  
(BAILEY)

SCOTT SMITH, prosecutor; and  
WEST VIRGINIA PAROLE BOARD,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James P. Mazzone [Doc. 9]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on February 13, 2019, wherein he recommends plaintiff's case be dismissed without prejudice and the Motion for Leave to Proceed in forma pauperis [Doc. 2] be denied.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v.***

*Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Mazzone's R&R were due within fourteen (14) days of service, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The docket reflects that service was accepted on February 21, 2019 [Doc. 11]. To date, no objections to the R&R have been filed. However, plaintiff did file a "Response" [Doc. 10] to the defendants' Response in opposition to the plaintiff's Application to Proceed Without Payment of Fees or Costs Accordingly [Doc. 8]. This "Response" was filed after the R&R, and even though this was not objecting to the R&R, this Court still analyzed the "Response" and finds no meritorious arguments. Because there are no true objections to the R&R, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the Report and Recommendation [Doc. 9] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** that the plaintiff's Complaint [Doc. 1] be **DISMISSED WITHOUT PREJUDICE**. Further, this Court **ORDERS** that plaintiff's Application and Affidavit to Proceed Without Prepayment of Fees [Doc. 2] be **DENIED**. This Court further **ORDERS** that this matter be **STRICKEN** from the active docket of this Court and **DIRECTS** the Clerk to enter judgment in favor of defendants.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to mail a copy to the *pro se* petitioner.

DATED: March 12, 2019.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE